

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 12, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Maui

Cancellation of Revocable Permit No. S-7241 to Ernest R. Mendes, Jr. and Jeanie L. Mendes, and Request for Waiver of Level One (I) Hazardous Waste Evaluation Requirement, Kahakuloa, Wailuku, Maui, Tax Map Key: (2) 3-1-001:023.

PURPOSE:

Cancellation of Revocable Permit No. S-7241, to Ernest R. Mendes Jr. and Jeanie L. Mendes (husband and wife) and Waiver of Level One (1) Hazardous Waste Evaluation Requirement.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kahakuloa situated at Wailuku, Maui, identified by Tax Map Key: (2) 3-1-001:003, as shown on the attached map labeled Exhibit A.

AREA:

56.010 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: Yes ____ NO x

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE OF PERMIT:

Commenced on: April 1, 2001.

MONTHLY RENTAL:

\$13.00

REMARKS:

Ernest R. Mendes, Jr. and Jeanie L. Mendes were provided approval for the issuance of a revocable permit pursuant to the Board of Land and Natural Resources' action of May 12, 2000, under item D-1. The Board's action also approved the sale of long-term lease at public auction but there were no interested applicants. Mr. and Mrs. Mendes declined application due to a high upset price of \$760.00 and concerns that the auction area only included 10% of usable grazing land with the remaining area comprised of steep ravines and cliffs.

Revocable Permit S-7241 was issued to Ernest R. Mendes Jr. and Jeanie L. Mendes effective as of April 1, 2001. Included in the terms of this agreement was a requirement for execution of a Level One (1) Hazardous Waste Evaluation and complete abatement and disposal (if necessary) prior to termination of the subject permit.

On June 30, 2011 the Maui District Land office received written request from Ernest Mendes Jr. for the cancellation of Revocable Permit S-7241 labeled exhibit B. Staff did notify tenants of the required waste evaluation. In a subsequent correspondence received from Ernest Mendes dated July 5, 2011, labeled exhibit C, he expressed concerns that due to economic constraints he would not be able to afford to conduct a Phase One (1) Evaluation and made mention that the majority of the property is comprised of a large gulch.

A final inspection was conducted of the leased area on July 1, 2011 at which time the premises was found to be in a clean and acceptable condition. Refer to exhibit D, inspection report.

Therefore, based on the request of the permittee, and findings at the time of the final inspection, the district office agrees that due to the previously approved use of Pasture Purposes, the Level (1) One Hazardous Waste Evaluation should be waived. Staff is further requesting Board approval for the cancellation of the Permit effective the date of July 25, 2011 (25 days from date of written notification from Mr. Mendes).

RECOMMENDATION: That the Board:

1. Authorize the cancellation of Revocable Permit No. S-7241 per the request of the permittee in the manner specified by law;


2. Authorize the retention of all sums heretofore paid or pledged under Revocable Permit No. S-7241 to be applied to any past due amounts;
3. Terminate the permit and all rights of Permittee and all obligations of the Permitter effective as of July 25, 2011, provided that any and all obligations of the Permittee which have accrued up to said effective date or which are stated in the lease to survive cancellation shall endure past such cancellation date until duly fulfilled, and further provided that Permitter reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under Revocable Permit No. S-7241 and to pursue all other rights and remedies as appropriate.
5. Waive requirement for a Level One (1) Hazardous Waste Evaluation.

Respectfully Submitted,




Larry Pacheco, Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

An aerial photograph of a large, irregularly shaped property in Hawaii. The property is outlined with a thick blue line. The interior of the property is mostly covered in dense green forest. There are several small, light-colored buildings or structures scattered throughout the property, particularly along the edges. The property is surrounded by other land parcels, which are outlined with thin red lines. Some of these surrounding parcels contain buildings or other structures. The overall terrain appears to be hilly or mountainous, with the forest covering the slopes.

State of Hawaii
RP-7241
Ernest Medes
(2) 3-1-001:023
56.1 Acres

EXHIBIT A

RECEIVED
MAUI DISTRICT
LAND DIVISION

Ernest & Jeanie Mendes Jr

Wailuku, HI 96793

2011 JUN 30 AM 9: 59

June 30, 2011

RE: Land Lease Permit # S-7241

TMK 2-3-1-001-023

Aloha,

This letter is to advise you that I wish to cancel my permit/lease for the above parcel. Please refund me any unused portion of the annual fee that I have paid. Feel free to call me if you have any questions.

Mahalo



Ernest R Mendes Jr

Exhibit B

Ernest & Jeanie Mendes Jr

Wailuku HI 96793

Phone: -

July 5, 2011

Permit #S-7241

Aloha,

Due to the current economic times I haven't worked in at least a year therefore, I gave up the lease on the this property as I could not continue to pay the fees and insurance. Due to these circumstances, I will also ask that you waive the Phase I Environmental Assessment as I can't afford to pay for this. This property was only leased by myself as it is adjacent to my property and I wanted to keep the area clean. We didn't conduct any activity on the property as 98% of the property is a large gulch. I would appreciate your help with this matter.

Thank You,

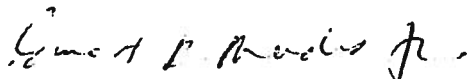

Ernest R Mendes Jr

EXHIBIT "C"

INSPECTION REPORT
Intensive Ag/Special Livestock/Pasture/Commercial Timber

FINAL INSPECTION

General Information

Document Number: GLS _____ or RPS 7241

Character of Use: Pasture Purposes

Inspection Date: 7/1/2011 Inspection Time: 8:30 a.m.

Land Agent: Larry Pacheco 

TENANT INFORMATION

Name: Ernest Mendes

Home Phone: _____

Address _____

Business Phone: _____

Fax: _____

Contact Person: Ernest Mendes

Contact Phone: _____

SITE INFORMATION

TMK: (2) 3-1-001:023

Area: 56.010

Site Address: Kahakuloa, Wailuku, Maui

FISCAL INFORMATION

ITEM	NOT APPLICABLE	CURRENT = COMPLIANCE	DEFAULT = NON-COMPLIANCE
Rent		x Annual : \$156.00	
Liability Insurance			x Exp. 3/1/2011
Fire Insurance	x		
Bond	x		
Mortgage	x		

ANNUAL INSPECTION REPORT
Intensive Ag/Special Livestock/Pasture/Commercial Timber

File Review

LICENSES/PERMITS/CONSENTS

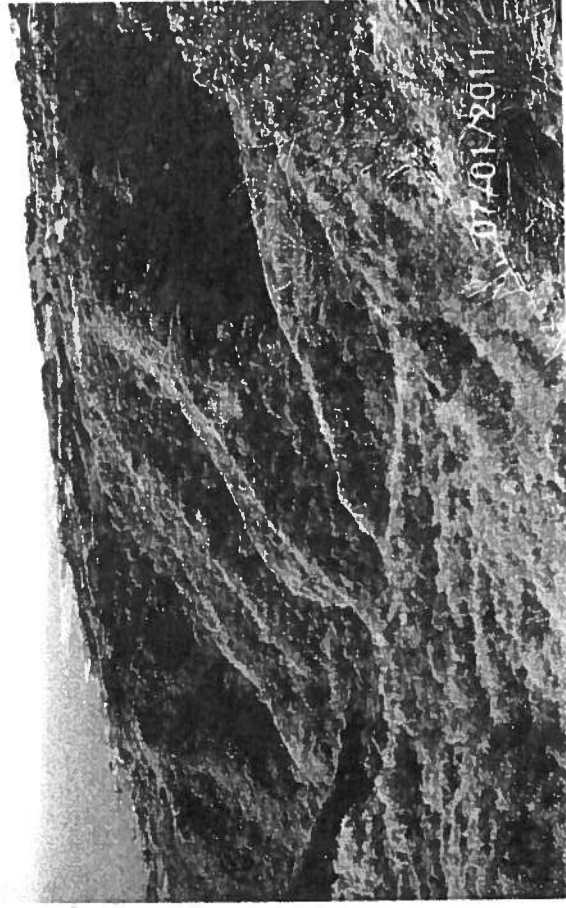
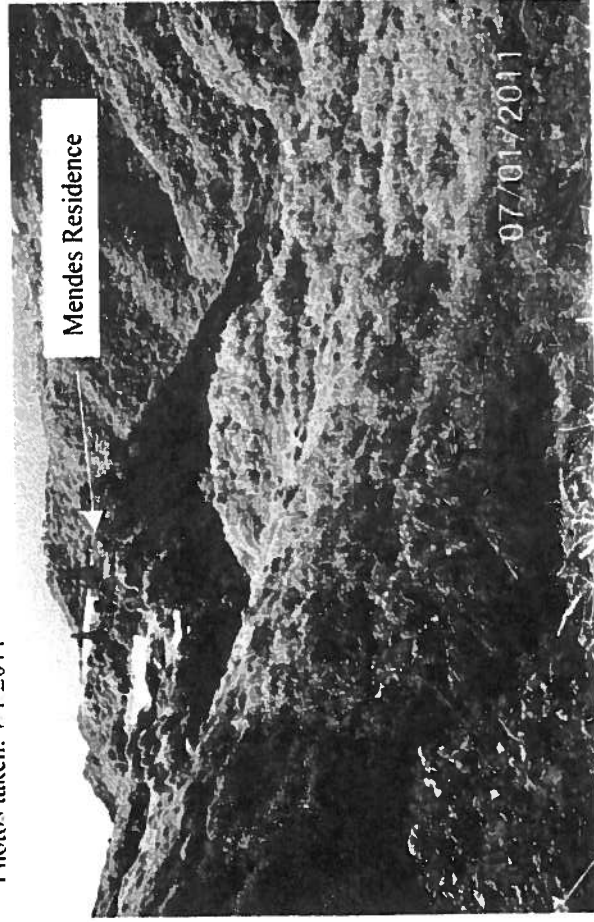
ITEM	DLNR Approval Docs in File			COMMENTS/NOTES/LISTS
	N/A	YES	NO	
Removal of Minerals/Waters	x			
Prehistoric/Historic Remains	x			
Cutting/Removal of Trees		x		Allowed for clean up and land maintenance purposes.
Hazardous Material Storage/Use	x			
Subletting	x			No subletting allowed.
Improvement Construction Buildings	x			None
Improvement Construction Other structures	x			None
Conservation Plan	x			No conservation plan submitted.

Field Inspection

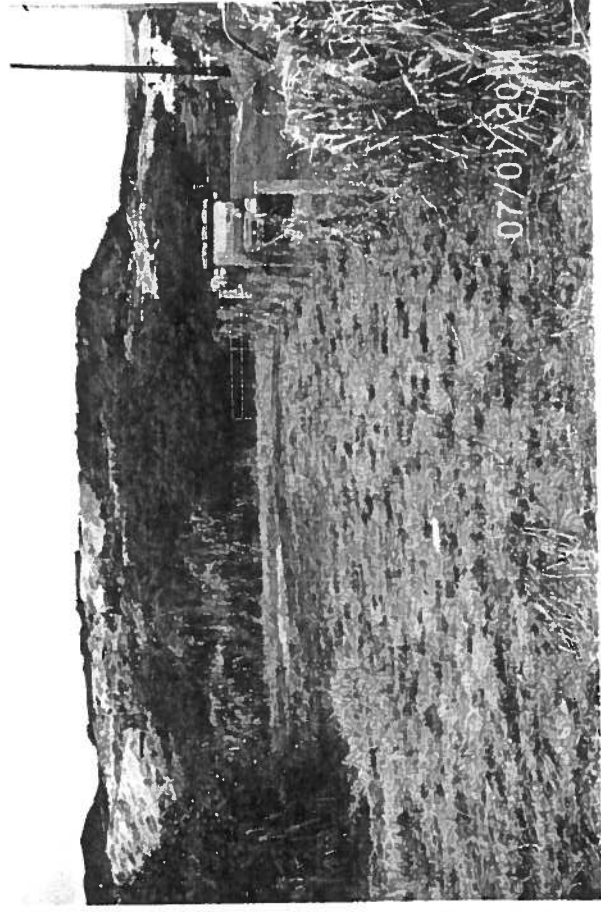
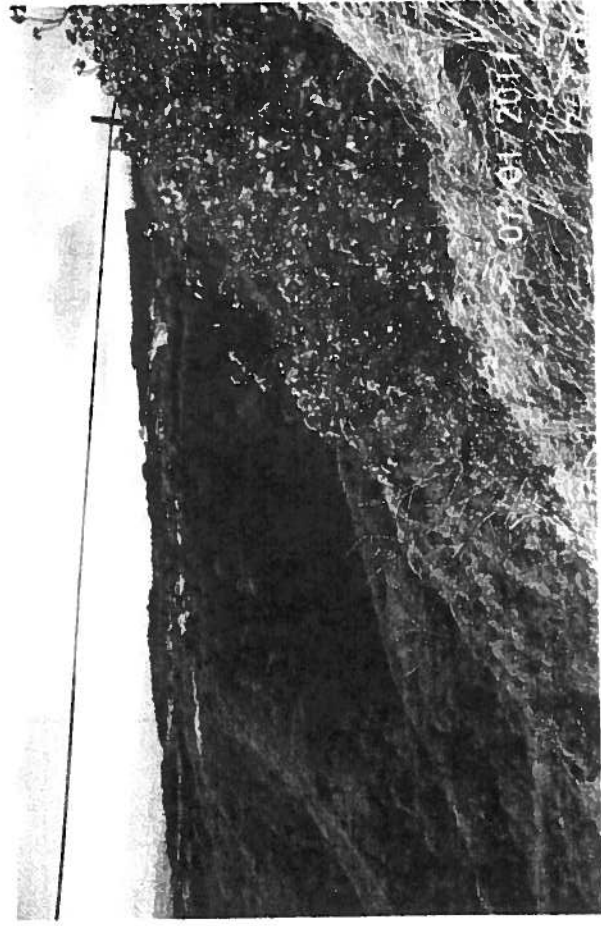
ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Subletting	consents approved use adheres to lease purpose	x			None
Buildings / Residences: roof, paint, exterior, interior	clean, sanitary, orderly suitable & well maintained DLNR construction consent adheres to completion schedule *check for hazardous materials	x			No buildings on the subject property.
Structures: roads, walkways, fence lines, pipelines, others	cross check w/ conservation plan clean, sanitary, orderly well maintained adheres to completion schedule *check for hazardous materials	x			There are no structures on the property.
Conservation Plan: conservation structures and plantings	adheres to plan map & schedule well maintained	x			No conservation plan was ever submitted by Mr. Mendes.

Premises	clean, sanitary, orderly		x		At the time of inspection the premises was found to be clean and free of any trash.
Hazardous Material Storage / Use	controlled and adheres to consent	x			No hazardous waste or materials were observed to be stored on the property.
Character of Use	adheres to lease purpose		x		The property was formerly being used to pasture a few head of cattle and goats.
Phase 1 Environmental Site Inspection	as required in General Lease or Revocable Permit		x		<p>Mr. Mendes has submitted a written request to have the Phase 1 Environmental Site Inspection requirement waived. He advised that due to his economic hardship and the fact that he has only used the subject parcel for pasture purposes and to keep it clean, there is no need to conduct this costly inspection.</p> <p>Checks were conducted with the Department of Health's Hazardous Evaluation and Response Office for any complaints or reports regarding the subject property. I was informed that they had no record on file regarding the subject area.</p> <p>Land Agent requesting that due to the terrain and the previous pasture use along with findings from my checks with DOH, the requirement to conduct the Phase 1 Environmental Site Inspection be waived.</p>
Other					

Photos taken: 7/1/2011



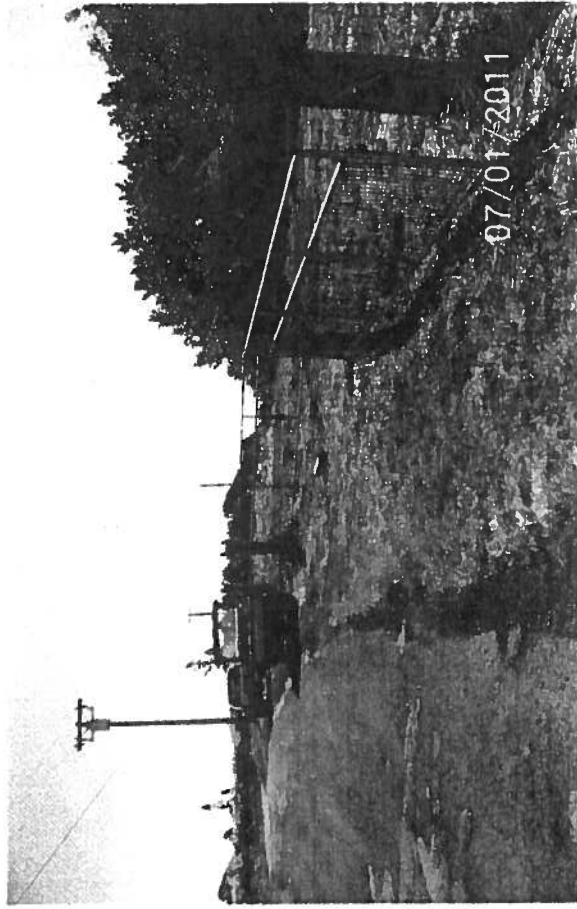
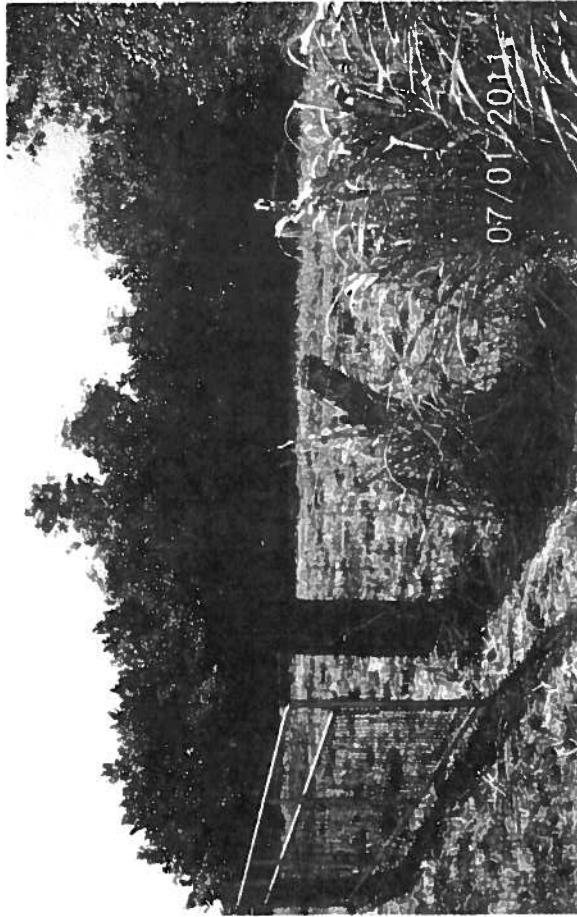
Photos of the land area currently under revocable permit S-7241 to Mr. Ernest Mendes.



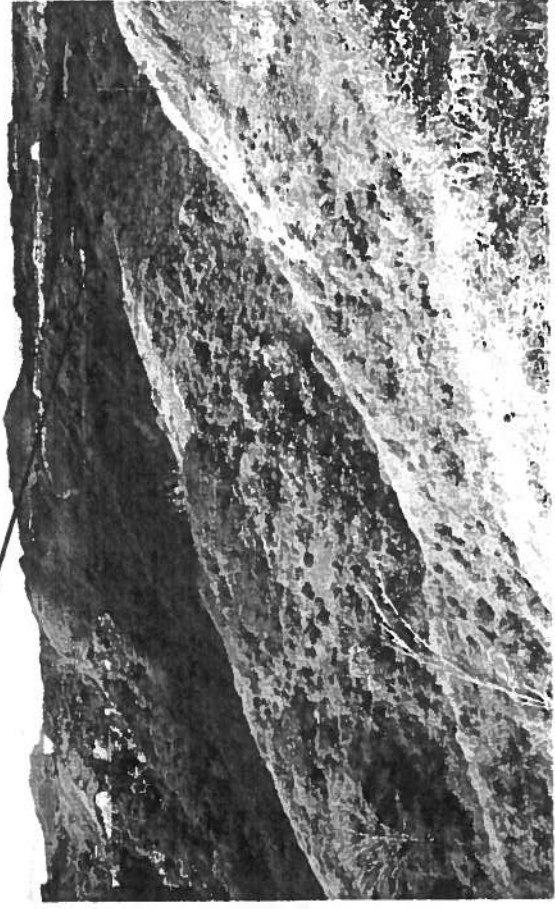
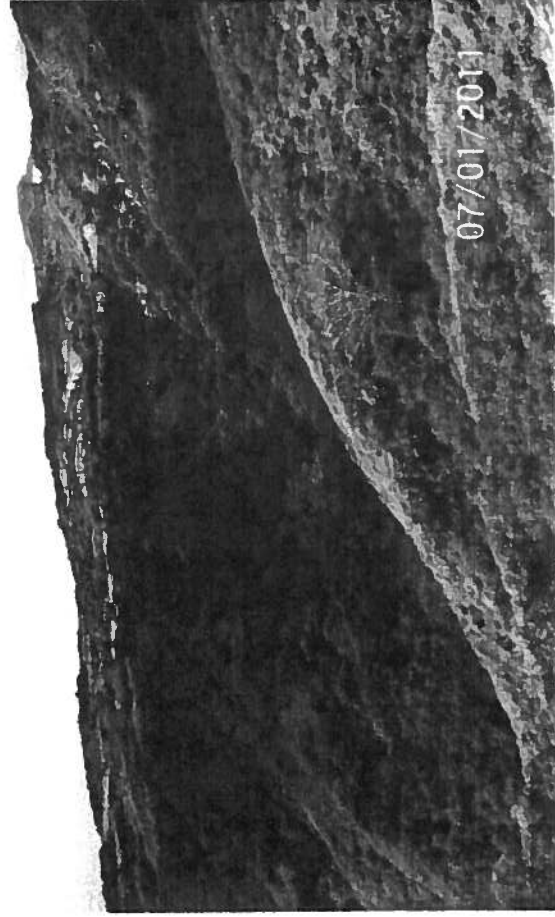
Fenced in flat area along Kahikili Hwy. with an access gate. Approx. 100' x 300'.

Photos taken: 7 / 1 / 2011

Ernest Mendes. RP-7241



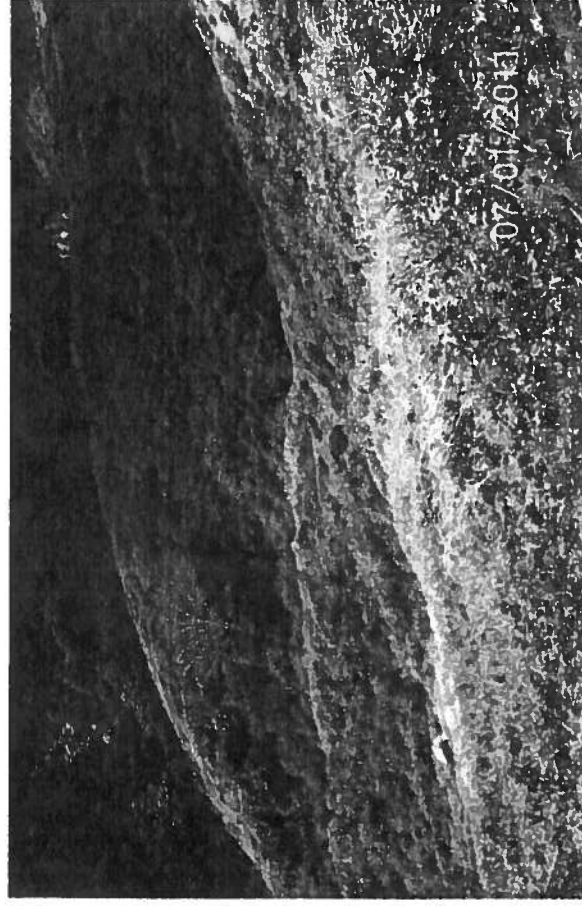
Top photos depicts a small portion of the subject parcel that Mr. Mendes fenced in due to illegal dumping of trash. Mr. Mendes has volunteered to leave the fence and gate in place to prevent unauthorized uses of the area.



Overview of TMK: (2) 3-1-001:023

Photos taken: 7/1/2011

Ernest Mendes. RP-7241



Overview photos of the subject property. Note that the terrain is very steep and runs down into a deep valley.

